Claims 60-110 are pending. Claim 70 stands objected to because of an informality. Claims 60-81, 80 and 95-103 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 76-82 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claims 60-110 stand rejected under 35 U.S.C. § 102(a) as being anticipated by European Patent No. EP 0598469A2 to Dunlevy.

Reconsideration is respectfully requested. The rejections are traversed. No new matter is added. Claims 60, 67, 69-70, 74-83, 90, 95, and 104 are amended. Claims 111-114 are added. Claims 60-114 remain in the case for consideration.

The amendments to claims 60, 67, 69-70, 74-82, and 95 correct typographical errors and address the Examiner's objections and rejections under 35 U.S.C. §§ 101 and 112, ¶ 2. None of the amendments to claims 60, 67, 69-70, 74-82, and 95 are necessary to overcome the rejection under 35 U.S.C. § 102(a) over Dunlevy. Accordingly, if the Examiner rejects claims 60-110 over grounds other than 35 U.S.C. § 102(a) over Dunlevy, such rejection should not be made final.

REJECTIONS UNDER 35 U.S.C. § 112, ¶ 2

The Examiner has rejected claims 60-81, 80, and 95-103 under 35 U.S.C. § 112, ¶ 2, as being indefinite for failing to particular point out and distinctly claim the subject matter the Applicant regards as the invention. Claims 60, 67, 69-70, 75, 81, and 95 have been amended to clarify the intent of the claims and overcome the Examiner's concerns regarding indefiniteness. The Applicant hopes these amendments clarify the invention sufficiently so as to be definite.

In regards to the Examiner's comment about claim 76 being unclear whether the components actually perform the actions as recited, the Applicant points out that the Examiner has properly interpreted the claims. The components recited in claim 76 and its dependent claims are capable of performing the operations described, but do not actually have to be in the act of performing the actions. The Applicant believes the claim language is clear on this point. For example, if the Applicant had wanted to recite the database of claim 76 as actually storing registration biometric samples, the Applicant could have written "a database storing a set of registration biometric samples . . ." The Applicant believes claims 76-81 are definite as

previously presented. Nevertheless, in the interest of clarity, the Applicant has amended claims 76-82 to recite that the claim elements are "configured to" perform certain acts: by implication, the claim elements should not need to actually perform the acts.

REJECTIONS UNDER 35 U.S.C. § 101

According to the Examiner, claim 76 recites an identification system that can refer to "software per se, which is not patentable" (see Office Action dated August 3, 2006). The Applicant has amended claim 76 to recite "an identification computer system". As the system is a computer system, the claimed invention is sufficiently tied to hardware that it is no longer "software per se", and so should be patentable under 35 U.S.C. § 101.

REJECTIONS UNDER 35 U.S.C. § 102(a)

Claim 60 is directed toward a computer-implemented biometric identification method, comprising: receiving a biometric sample from an individual; locating a set of currently stored registration biometric samples, wherein at least two of the currently stored registration biometric samples in the set are provided by two different registered individuals respectively; comparing the received biometric sample with at least one currently stored registration biometric sample in the set of currently stored registration biometric samples to find a match; and transmitting a confirmation of the match.

Claim 67 is directed toward a computer-implemented biometric identification method, comprising: receiving a biometric sample from an individual; locating a currently stored set of registration biometric samples, wherein at least two of the registration biometric samples in the currently stored set are provided by two different registered individuals respectively; comparing the received biometric sample with a subset of the currently stored set of registration biometric samples to produce an evaluation; and transmitting the evaluation.

Claim 76 is directed toward an identification computer system comprising: a database configured to store a set of registration biometric samples, wherein at least two of the registration biometric samples in the set are provided by two different registered individuals respectively; a network component configured to receive a biometric data from an individual over a communication link and output data associated with the individual over the communication link; and a comparator component configured to compare the biometric data from the individual with

at least one registration biometric sample in a subset of the registration biometric samples stored in the database to locate the data associated with the individual, the subset of the registration biometric samples including registration biometric samples from at least two individuals.

Claim 95 is directed toward computer-readable media storing software to implement the method of: receiving a biometric sample from an individual; locating a set of currently stored registration biometric samples, wherein at least two of the registration biometric samples in the set are provided by two different registered individuals respectively; comparing the received biometric sample with at least one currently stored registration biometric sample in the set of currently stored registration biometric samples to find a match; and transmitting a confirmation of the match.

In rejecting claims 60, 67, and 95 (and by analogy to claim 60, claim 76), the Examiner has cited to Figure 2, step 50 and column 5, line 47 through column 6, line 5 of Dunlevy as teaching the element of locating a set of registration biometric samples provided by at least two registered individuals. The Applicant has amended this element in each of the foregoing rejected claims in response to the Examiner's rejections under 35 U.S.C. § 112, ¶ 2 and believes that such amendments also clarify the distinctions between the Applicant's claims invention and the teachings in Dunlevy. Specifically, Dunlevy does not teach locating a *set* of biometric registration samples, *wherein at least two of the registration biometric samples* in the set *are each* provided by *two different* registered individuals. Instead, as described in column 8, line 21 through 30, Dunlevy appears to locate a *single* "anchored voice print" ("anchored" to the credit card number) and compares the "captured voice print" to that *single* "anchored voice print" rather than a *set of registration biometric samples*. As such, Applicant believes that claims 60, 67, 76, and 95 are clearly distinguishable from Dunlevy and are allowable, as are dependent claims 61-66, 68-75, 77-82, 96-103, and new dependent claims 111-114.

Claim 83 is directed toward a computer-implemented identification method, comprising: gathering biometric information from an individual for a transaction; transmitting the biometric information to an identicator via an output port; receiving account data associated with the individual from the identicator; and using the account data associated with the individual to perform the transaction.

Claim 90 is directed toward an identification system comprising: a local computer system including an output port to transmit biometric data from an individual onto a communication link and an input port to receive account data associated with the individual from the communication link; and an output device within the local computer system to use the account data associated with the individual to perform a transaction.
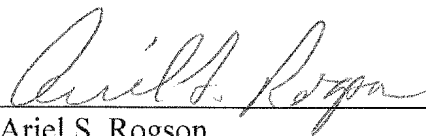
Claim 104 is directed toward computer-readable media storing software to implement the method of: gathering biometric information from an individual for a transaction; transmitting the biometric information to an identicator via an output port; receiving account data associated with the individual from the identicator; and using the account data associated with the individual to perform the transaction.

Claims 83, 90, and 104 have been amended to recite account data received from the identicator. In contrast, Dunlevy only teaches processing the transaction if the voice prints match, and handling fraud if the voice prints do not match. Dunlevy does not teach any other information coming from the system after the voice print comparison. Accordingly, claims 83, 90, and 104 are parentable under 35 U.S.C. § 102(a) over Dunlevy, and are allowable, as are dependent claims 84-89, 91-94, and 105-110.

For the foregoing reasons, reconsideration and allowance of claims 60-114 of the application as amended is requested. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.

Ariel S. Rogson
Reg. No. 43,054

MARGER JOHNSON & McCOLLOM, P.C.
210 SW Morrison Street, Suite 400
Portland, OR 97204
503-222-3613
Customer No. **60460**